

# State of Wisconsin



2017 Assembly Bill 906

Date of enactment: **April 9, 2018**  
Date of publication\*: **April 10, 2018**

## 2017 WISCONSIN ACT 261

AN ACT *to amend* 48.546 (2), 938.546 (2) and 968.12 (2); and *to create* 20.435 (5) (bd), 20.437 (1) (bf), 20.455 (2) (cm), 46.47, 48.545 (2) (c), 49.175 (1) (o), 165.25 (11), 165.984 and 961.473 of the statutes; **relating to:** creating a law enforcement agency drug trafficking response grant program; positions to assist in prosecuting drug-related offenses; evidence-based programs for substance abuse prevention services for at-risk youth; victim impact panels; funding for family and juvenile treatment courts; grants for county jails to provide nonnarcotic treatment before offender reentry; and making appropriations.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

				2017-18	2018-19
<b>20.435 Health services, department of</b>					
(5) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES					
(bd) Nonnarcotic drug treatment grants	GPR	B		750,000	750,000
<b>20.437 Children and families, department of</b>					
(1) CHILDREN AND FAMILY SERVICES					
(bf) Family and juvenile treatment court grants	GPR	A		-0-	250,000
<b>20.455 Justice, department of</b>					
(2) LAW ENFORCEMENT SERVICES					
(cm) Law enforcement agency drug trafficking response grants	GPR	B		-0-	1,000,000

**SECTION 2.** 20.435 (5) (bd) of the statutes is created to read:

20.435 (5) (bd) *Nonnarcotic drug treatment grants.* Biennially, the amounts in the schedule to provide grants under s. 46.47 (1).

**SECTION 3.** 20.437 (1) (bf) of the statutes is created to read:

20.437 (1) (bf) *Family and juvenile treatment court grants.* The amounts in the schedule for family treatment court grants under s. 48.546 and juvenile treatment court grants under s. 938.546.

**SECTION 4.** 20.455 (2) (cm) of the statutes is created to read:

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

20.455 (2) (cm) *Law enforcement agency drug trafficking response grants.* Biennially, the amounts in the schedule to provide grants for Wisconsin law enforcement agency drug trafficking response under s. 165.984.

**SECTION 5.** 46.47 of the statutes is created to read:

**46.47 Grants for nonnarcotic drug treatment in county jails.** (1) From the appropriation account under 20.435 (5) (bd), the department shall award grants to provide nonnarcotic drug treatment as provided in sub. (2) to a county or federally recognized American Indian tribe or band that meets all of the following criteria:

- (a) The county or tribe has a county or tribal jail.
- (b) The county or tribe has an established drug court, as defined in s. 165.955 (1).
- (c) The county or tribe provides care coordination for inmates exiting county or tribal jail.
- (d) The county or tribe has identified how it will use care coordination to ensure that all program participants are enrolled in Medical Assistance under subch. IV of ch. 49 and will continue to receive treatment after an inmate leaves county or tribal jail custody.

(2) Grant funds awarded under sub. (1) may be used only to provide nonnarcotic, non-addictive, injectable medically assisted treatment to inmates of county or tribal jails who voluntarily receive the treatment within the 5 days immediately preceding release from jail into the community.

(3) The department shall provide application procedures for awarding grants to counties or tribes under sub. (1) in accordance with the department's request-for-proposal procedures.

**SECTION 6.** 48.545 (2) (c) of the statutes is created to read:

48.545 (2) (c) 1. Beginning in fiscal year 2018-19, the department shall distribute \$500,000 in grants in each fiscal year for programs to provide evidence-based programs and practices for substance abuse prevention to at-risk youth and their families.

2. Grants under this paragraph may be made to applying nonprofit corporations or public agencies in a county with a population of 750,000 or more, county departments under s. 46.22, 46.23, 51.42, or 51.437 in counties other than a county having a population of 750,000 or more, or a federally recognized American Indian tribe or band.

3. The department may not award a grant under this paragraph to a county or a tribe that offered the services described under subd. 1. in the preceding fiscal year unless those services were previously funded by a grant under this paragraph.

**SECTION 7.** 48.546 (2) of the statutes, as created by 2017 Wisconsin Act .... (Senate Bill 390), is amended to read:

48.546 (2) The department may make the grants for the programs specified in sub. (1) within the availability of funding under s. 20.437 (1) ~~(aL)~~ (bf). The department

shall collaborate with the department of health services and the director of state courts in establishing the grant program under this section.

**SECTION 8.** 49.175 (1) (o) of the statutes is created to read:

49.175 (1) (o) *Evidence-based substance abuse prevention grants.* For grants awarded under s. 48.545 (2) (c), \$500,000 in fiscal year 2018-19.

**SECTION 9.** 165.25 (11) of the statutes is created to read:

165.25 (11) **REPORT ON FIELD PROSECUTOR POSITIONS.** The department of justice shall submit an annual report to the joint committee on finance regarding the field prosecutor attorney positions created under 2017 Wisconsin Act .... (this act), section 13. The report shall describe the activities and assess the effectiveness of the attorneys in assisting the division of criminal investigation in the field offices of Wausau and Appleton and in assisting district attorneys in the prosecution of drug-related offenses.

**SECTION 10.** 165.984 of the statutes is created to read:

**165.984 Law enforcement drug trafficking response grants.** (1) In this section:

(a) "Tribal law enforcement agency" has the meaning given in s. 165.83 (1) (e).

(b) "Wisconsin law enforcement agency" means a governmental unit of one or more persons employed full time by this state or a political subdivision of this state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority, and includes a task force administered by the department of justice that exists to respond to drug crimes.

(2) The department of justice shall establish policies and procedures for the distribution of grants from the appropriation under s. 20.455 (2) (cm) to Wisconsin law enforcement agencies and tribal law enforcement agencies to fund law enforcement response to drug trafficking. Notwithstanding s. 227.10 (1), the department need not promulgate the required policies and procedures as rules under ch. 227.

(3) A Wisconsin law enforcement agency or tribal law enforcement agency may apply to the department of justice for a grant under this section and shall include a proposed plan of expenditure of the grant money. The proposed plan of expenditure shall specify a new program or purpose for which the funds will be used. If the proposed plan of expenditure will result in the agency incurring an ongoing expense that will continue after all grant funds have been spent, the plan shall include a description of how that expense will be met when there are no remaining grant funds.

(4) The department of justice shall review each application and plan and may provide grants to an eligible Wisconsin law enforcement agency or tribal law enforcement agency of not more than \$50,000 per application

and plan and not more than \$100,000 per agency. A grant may be provided only to fund a new program or purpose within the agency and may not be provided to supplement an existing program.

(5) A Wisconsin law enforcement agency or tribal law enforcement agency receiving a grant under this section may use the grant to fund extra training for law enforcement officers, the hiring of additional officers to investigate drug trafficking, or any other purpose that is directly related to drug trafficking response and that is not an existing program within the agency at the time the grant is received.

**SECTION 10m.** 938.546 (2) of the statutes, as created by 2017 Wisconsin Act .... (Senate Bill 390), is amended to read:

938.546 (2) The department of children and families may make the grants for the programs specified in sub. (1) within the availability of funding under s. 20.437 (1) ~~(mL)~~ (bf). The department of children and families shall collaborate with the department of corrections, the department of health services, and the director of state courts in establishing the grant program under this section.

**SECTION 11.** 961.473 of the statutes is created to read:

**961.473 Victim impact panels.** If a person pleads guilty to or is found guilty of a violation of this chapter, the court may order the person to attend a program, such as a victim impact panel, that demonstrates the adverse effects of substance abuse on an individual or an individual's family in addition to any forfeiture or penalty imposed. The court may order the defendant to pay a reasonable fee, based on the person's ability to pay, to offset the costs of assembling and holding the program ordered under this section.

**SECTION 11m.** 968.12 (2) of the statutes is amended to read:

968.12 (2) **WARRANT UPON AFFIDAVIT.** A search warrant may be based upon sworn complaint or affidavit, or testimony recorded by a phonographic reporter or under sub. (3) (d), showing probable cause therefor. The complaint, affidavit or testimony may be upon information and belief. The person requesting the warrant may swear to the complaint or affidavit before a notarial officer authorized under s. 706.07 to take acknowledgments or

before a judge, or a judge may place a person under oath via telephone, radio, or other means of electronic communication, without the requirement of face-to-face contact, to swear to the complaint or affidavit. The judge shall indicate on the search warrant that the person so swore to the complaint or affidavit.

**SECTION 12. Nonstatutory provisions.**

(1) **RECONCILIATION PROVISION.** If 2017 Senate Bill 390 is not enacted into law in the 2017 legislative session, then the treatment of sections 20.437 (1) (bf), 48.546 (2), and 938.546 (2) of the statutes by this act is void.

**SECTION 13. Fiscal changes.**

(1) **FIELD PROSECUTOR POSITIONS; DRUG-RELATED OFFENSES.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of justice under section 20.455 (1) (a) of the statutes, the dollar amount for fiscal year 2017–18 is increased by \$300,000 to increase the authorized positions for the department by 2.0 GPR attorney project positions to assist the division of criminal investigation in the field offices of Wausau and Appleton and to assist district attorneys in prosecuting drug-related offenses. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of justice under section 20.455 (1) (a) of the statutes, the dollar amount for fiscal year 2018–19 is increased by \$300,000 to provide funding for the positions authorized under this subsection. Notwithstanding section 230.27 (1) of the statutes, the project positions authorized under this subsection shall terminate 5 years from the effective date of this subsection.

(2m) **EVIDENCE-BASED SUBSTANCE ABUSE PREVENTION GRANTS.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of children and families under section 20.437 (2) (md) of the statutes, the dollar amount for fiscal year 2018–19 is increased by \$500,000 for evidence-based substance abuse prevention grants awarded under section 48.545 (2) (c) of the statutes.

**SECTION 14. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 20.437 (1) (bf), 48.546 (2), and 938.546 (2) of the statutes takes effect on the effective date of 2017 Senate Bill 390.